



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces its decision to grant Daimler Trucks North America's (Daimler) application for an exemption for one Daimler driver to drive commercial motor vehicles (CMV) in the United States without possessing a commercial driver's license (CDL) issued by one of the States. Sven Ennerst is an engineering executive who will test-drive Daimler vehicles on U.S. roads to better understand product requirements for these vehicles in "real world" environments and verify results. He holds a valid German CDL but lacks the U.S. residency necessary to obtain a CDL issued by one of the States. FMCSA believes that the process for obtaining a German-issued CDL is comparable to or is effective as the U.S. CDL requirements and ensures that this driver will likely achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: This exemption is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] and expires [INSERT DATE ONE YEAR AFTER PUBLICATION IN FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA
Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety
Standards; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Legal Basis

Section 4007(a) of the Transportation Equity Act for the 21st Century (TEA-21) (Public Law 105-178, 112 Stat. 107, 401, June 9, 1998) provided the Secretary of Transportation (the Secretary) the authority to grant exemptions from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under chapter 313 or section 31136 of title 49, United States Code, to a person(s) seeking regulatory relief (49 U.S.C. 31136, 31135(b)). Prior to granting an exemption, the Secretary must request public comment and make a determination that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. Exemptions may be granted for a period of up to 2 years and may be renewed.

The FMCSA Administrator has been delegated authority under 49 CFR 1.87(e)(1) and (f) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313 and subchapters I and III of chapter 311, relating, respectively, to the commercial driver's license program and to commercial motor vehicle (CMV) programs and safety regulation.

Background

In the May 25, 2012, **Federal Register** (77 FR 31422), FMCSA granted Daimler a similar exemption for two of its test drivers. Each individual held a valid German CDL but lacked the U.S. residency necessary to obtain a CDL in the United States. FMCSA

concluded that the process for obtaining a German CDL is comparable to or as effective as the U.S. CDL requirements and ensures that these drivers will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption. These two drivers were not involved in any crashes or other safety-related incidents.

Daimler Application for Exemption

Daimler applied for an exemption for Mr. Sven Ennerst from 49 CFR 383.23, requiring drivers operating CMVs to have a CDL issued by one of the States. Notice of the application was published on March 27, 2014 (79 FR 17227). No comments were received. A copy of the Daimler request is in the docket identified at the beginning of this notice. The exemption allows Sven Ennerst to operate CMVs to support Daimler field tests to meet future vehicle safety and environmental requirements and to promote the development of technology and advancements in vehicle safety systems and emissions reductions. He will typically drive for no more than 6 hours per day for 2 consecutive days, and 10 percent of the test driving will be on two-lane state highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, for a total of 400 miles during a two-day period on a quarterly basis.

Section 383.21 requires CMV drivers in the United States to have a CDL issued by a State. Ennerst is a citizen and resident of Germany. Only residents of a State can apply for a CDL. Without the exemption, Mr. Ennerst would not be able to test-drive Daimler prototype CMVs on U.S. roads.

Mr. Ennerst holds a valid German CDL and is an experienced operator of CMVs. In the application for exemption, Daimler also submitted documentation showing his safe German driving record.

Method to Ensure an Equivalent or Greater Level of Safety

According to Daimler, the requirements for a German-issued CDL ensure that the same level of safety is met or exceeded as if these drivers had a CDL issued by one of the States. Mr. Ennerst, is very familiar with the operation of CMVs worldwide and will be accompanied at all times by a driver who holds a U.S.-issued CDL and is familiar with the routes to be traveled. FMCSA has determined that the process for obtaining a CDL in Germany is comparable to that for obtaining a CDL issued by one of the States and adequately assesses the driver's ability to safely operate CMVs in the United States.

FMCSA Decision

Based upon the merits of this application, including Mr. Ennerst's extensive driving experience and safety record, and the fact that he has successfully completed the requisite training and testing to obtain a German CDL, FMCSA concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

Terms and Conditions for the Exemption

FMCSA grants Daimler and Sven Ennerst an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Ennerst to drive CMVs in this country without a U.S. State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350-399), (2) the driver must be in

possession of the exemption document and a valid German CDL, (3) the driver must be employed by and operating the CMV within the scope of his duties for Daimler, (4) Daimler must notify FMCSA within 5 business days in writing of any accident, as defined in 49 CFR 390.5, involving this driver, and (5) Daimler must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 1 year unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Mr. Ennerst fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

Issued on: July 15, 2014

Anne S. Ferro
Administrator

[FR Doc. 2014-17246 Filed 07/21/2014 at 8:45 am; Publication Date: 07/22/2014]